

M&I
R.O. Draft 01/19-2001
R.O. Draft 01/31-2001
Rev. R.O. Draft 02/05-2001
Rev. CCAO Draft 05/30-2001
Contract No.
14-06-200-5183A - 1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

AMENDATORY CONTRACT BETWEEN THE UNITED STATES
AND
EAST BAY MUNICIPAL UTILITY DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE AMERICAN RIVER DIVISION

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	2-6
1	Definitions	6-9
2	Term of Contract	10-11
3	Water to be Made Available and Delivered to the Contractor	11-15
4	Time for Delivery of Water	15-16
5	Point of Diversion and Responsibility for Distribution of Water	16-21
6	Measurement of Water Within the Service Area	21-23
7	Rates and Method of Payment for Water	23-29
8	Non-Interest Bearing Operation and Maintenance Deficits	29
9	Sales, Transfers, or Exchanges of Water	29-31
10	Application of Payments and Adjustments	31-32
11	Temporary Reductions--Return Flows	32-33
12	Constraints on the Availability of Water	33-34
13	Unavoidable Groundwater Percolation	34
14	Rules and Regulations	34
15	Water and Air Pollution Control	34
16	Quality of Water	35
17	Water Acquired by the Contractor Other Than From the United States	35-37
18	Opinions and Determinations	37-38
19	Coordination and Cooperation	38-40
20	Charges for Delinquent Payments	40
21	Equal Opportunity	40-41

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
22	General Obligation--Benefits Conditioned Upon Payment	41-42
23	Compliance With Civil Rights Laws and Regulations	42
24	Privacy Act Compliance	42
25	Contractor to Pay Certain Miscellaneous Costs	43
26	Water Conservation	43-44
27	Existing or Acquired Water or Water Rights	44-45
28	Operation and Maintenance by Non-Federal Entity	45
29	Contingent on Appropriation or Allotment of Funds	45
30	Books, Records, and Reports	45
31	Assignment Limited--Successors and Assigns Obligated	46
32	Severability	46-47
33	Resolution of Disputes	47
34	Officials Not to Benefit	47
35	Changes in Contractor's Service Area	47-48
36	Federal Laws	48
37	Notices	48-49
38	Confirmation of Contract	49
	Signature Page	50
	Exhibit A	
	Exhibit B	

M&I
R.O. Draft 01/19-2001
R.O. Draft 01/31-2001
Rev. R.O. Draft 02/05-2001
Rev. CCAO Draft 05/30-2001
Contract No.
14-06-200-5183A - 1

1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 AMENDATORY CONTRACT BETWEEN THE UNITED STATES
6 AND
7 EAST BAY MUNICIPAL UTILITY DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE AMERICAN RIVER DIVISION

10 THIS CONTRACT, made this 20th day of July, 2001, in
11 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
12 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
13 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
14 July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262),
15 October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992
16 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, between
17 THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and EAST
18 BAY MUNICIPAL UTILITY DISTRICT, hereinafter referred to as the Contractor, a public
19 agency of the State of California, duly organized, existing, and acting pursuant to the laws
20 thereof, with its principal place of business in California;

21 WITNESSETH, That:

EXPLANATORY RECITALS

[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Folsom Dam and Reservoir and appurtenant facilities, hereinafter collectively referred to as the American River Division facilities, which will be used in part for the furnishing of this supplemental supply of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant to California law for operation of the Project; and

[4th] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-200-5183A, which established terms for the delivery to the Contractor of a supplemental supply of Central Valley Project Water from the American River Division of up to 150,000 acre-feet per year of Central Valley Project Water from a point on the Folsom South Canal at Station 666+50; and

[5th] Omitted.

[6th] Omitted.

[7th] Omitted.

[8th] Omitted.

[9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its obligations under the Existing Contract; and

[10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting Officer projected future demand for water use such that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to this Contract; and

[11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by urban and agricultural areas within California for more than fifty (50) years, and is considered by the Contractor as an essential portion of its water supply; and

[12th] WHEREAS, the economies of regions within the Central Valley Project, including the Contractor's, depend upon the continued availability of water, including water service from the Central Valley Project; and

[12.1] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28, 2000, the United States and the State of California adopted a general target of continuously improving Delta water quality for all uses. The CALFED Agencies' target for providing safe, reliable, and affordable drinking water in a cost-effective way, is to achieve either: (a) average concentrations at Clifton Forebay and other southern and central Delta drinking water intakes of 50 ug/L bromide and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health protection using a cost-effective combination of alternative source waters, source control and treatment technologies; and

[13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to pursue measures to improve water supply, water quality, and reliability of the Project for all Project purposes; and

[13.1] WHEREAS, the Contractor and the water users in its Service Area have improved and will continue to improve water use efficiency through water conservation, water reclamation, and other Best Management Practices. Implementation of these measures has reduced and continues to reduce the ability of the Contractor and the water users in its Service Area to withstand a Condition of Shortage; and

[14th] WHEREAS, the mutual goals of the United States and the Contractor include: to provide for reliable Central Valley Project Water supplies; to control costs of those supplies; to achieve repayment of the Central Valley Project as required by law; to guard reasonably against Central Valley Project Water shortages; to achieve a reasonable balance among competing demands for use of Central Valley Project Water; and to comply with all applicable environmental statutes, all consistent with the legal obligations of the United States relative to the Central Valley Project; and

[15th] WHEREAS, the parties intend by this Contract to develop a more cooperative relationship in order to achieve their mutual goals; and

[16th] Omitted.

[17th] WHEREAS, the United States is willing to amend the original contract to provide for the delivery of Central Valley Project Water to the Contractor's point(s) of delivery subject to the conditions set forth below; and

85 [18th] WHEREAS, in recognition of dry year considerations, the Contractor is willing to
86 forego deliveries in certain years when the Central Valley Project system faces operational limits
87 and the Contractor has sufficient carryover storage under its exclusive control; and

88 [19th] WHEREAS, it is the mutual interest of the parties to encourage the development
89 by the Contractor of additional water storage capacity, including conjunctive use and
90 groundwater storage programs; and

91 [20th] WHEREAS, in this instance, “historic use” of Project Water is not an appropriate
92 basis for calculating the supply of Project Water to be made available to the Contractor during
93 years in which Project Water shortages are being imposed on Project Contractors north of the
94 Sacramento/San Joaquin River Delta (“Delta”), and therefore this Amendatory Contract must
95 incorporate a different methodology for calculating the amount of Project Water to be made
96 available to the Contractor during water short years; and

97 [21st] WHEREAS, it is understood that this Amendatory Contract and any renewal
98 thereof, will be the basis of substantial capital investments by the Contractor in new diversion
99 and conveyance facilities, which are intended to reduce the frequency and severity of customer
100 deficiencies within the Contractor’s water service area, and may provide available excess
101 capacity for the use and benefit of the United States, the environment, and other Project
102 Contractors; and

103 [22nd] WHEREAS, the Contractor, in accordance with the terms and conditions of the
104 original contract, has paid substantial sums to the United States, and has not taken any substantial
105 deliveries under its original contract. Said payment has reduced potential deficit obligations to
106 the Contractor and has likely resulted in lower water rates paid by other Central Valley Project
107 Contractors.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) “Calendar Year” shall mean the period January 1 through December 31, both dates inclusive;

(b) “Charges” shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Components specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(c) “Condition of Shortage” shall mean a condition respecting the Project during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract Total;

(d) “Contracting Officer” shall mean the Secretary of the Interior’s duly authorized representative acting pursuant to this Contract or applicable Reclamation law or regulation;

(e) “Contract Total” shall mean either the maximum amount of 133,000 acre-feet of water to which the Contractor is entitled under subdivision (a)(1) of Article 3 of this Contract; or, the maximum amount of 150,000 acre-feet of water to which the Contractor is entitled in any given year under subdivision (a)(2) or (a)(3), whichever subdivision is the then-operative provision, of Article 3 of this Contract;

(f) “Contractor's Service Area” shall mean the area to which the Contractor is permitted to provide Project Water under this Contract as described in Exhibit “A” attached

hereto, which may be modified from time to time in accordance with Article 35 of this Contract without amendment of this Contract;

(g) “CVPIA” shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

(h) Omitted.

(i) Omitted.

(j) Omitted.

(k) Omitted.

(l) Omitted.

(m) “Irrigation Water” shall mean water made available from the Project that is used primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and watering of livestock;

(n) Omitted.

(o) “Municipal and Industrial (M&I) Water” shall mean water made available from the Project other than Irrigation Water made available to the Contractor. M&I Water shall include water used for human use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to land holdings operated in units of less than five (5) acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a use described in subdivision (m) of this Article;

(p) “M&I Full Cost Water Rate” shall mean the annual rate, which, as determined by the Contracting Officer, shall amortize the expenditures for construction allocable

to Project M&I facilities in service, including, O&M deficits funded, less payments, over such periods as may be required under Federal Reclamation law with interest accruing from the dates such costs were first incurred plus the applicable rate for the O&M of such Project facilities.

Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;

(q) “Operation and Maintenance” or “O&M” shall mean normal and reasonable care, control, operation, repair, replacement (other than Capital replacement), and maintenance of Project facilities;

(r) Omitted.

(s) “Project” shall mean the Central Valley Project owned by the United States and managed by the Department of the Interior, Bureau of Reclamation;

(t) “Project Contractors” shall mean all parties who have water service contracts for Project Water from the Project with the United States pursuant to Federal Reclamation law;

(u) “Project Water” shall mean all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(v) “Rates” shall mean the payments determined annually by the Contracting Officer in accordance with the then current applicable water ratesetting policies for the Project, as described in subdivision (a) of Article 7 of this Contract;

(w) “Recent Historic Average” shall mean the most recent five (5) -year average of the final forecast of Water Made Available to the Contractor pursuant to this Contract or its preceding contract(s);

(x) “Secretary” shall mean the Secretary of the Interior, a duly appointed successor, or an authorized representative acting pursuant to any authority of the Secretary and through any agency of the Department of the Interior;

(y) “Tiered Pricing Component” shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

(z) “Water Delivered” or “Delivered Water” shall mean Project Water diverted for use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

(z.1) “Total System Storage” shall mean the quantity of untreated water stored in Pardee, Camanche, San Pablo, Upper San Leandro, Briones, Lafayette and Chabot Reservoirs, and any quantity of water that has been moved from said reservoirs to other untreated water storage facilities operated for the benefit of Contractor in the same Year;

(aa) “Water Made Available” shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(bb) “Water Scheduled” shall mean Project Water made available to the Contractor for which times and quantities for delivery have been established by the Contractor and Contracting Officer, pursuant to subdivision (b) of Article 4(a) of this Contract; and

(cc) "Year" shall mean the period from and including March 1 of each Calendar Year through the last day of February of the following Calendar Year.

196 TERM OF CONTRACT

197 2. (a) This Contract shall be effective the date of execution hereof, through
198 December 31, 2012. Early renewal of this Contract shall be pursuant to the “Binding Agreement
199 for Early Renewal Between the United States and East Bay Municipal Utility District” dated
200 September 30, 1997.

201 (b) Both the Contractor and the Contracting Officer concur that, at the time of
202 the execution of this Amendatory Contract, the Contractor has executed a binding agreement
203 required under Section 3404(c)(3) of the CVPIA, and shall be required to renew this Amendatory
204 Contract under terms and conditions set forth in said agreement. It is understood and agreed that
205 the terms and conditions of such early renewal shall be as set forth in this Amendatory Contract;
206 Provided, however, that execution of such renewal contract shall be subject to and consistent
207 with any environmental documentation required by Federal law for CVP contract renewals. This
208 Amendatory Contract shall be deemed to be the “existing contract” as that term is used in said
209 binding agreement.

210 (c) This Amendatory Contract replaces Contract No. 14-06-200-5183A, of
211 December 22, 1970, in its entirety.

212 (d) Should the Contractor not elect an early renewal pursuant to this Article,
213 this Contract shall be renewed for a period of twenty-five (25) years, a subsequent period of
214 twenty-five (25) years, and thereafter shall be renewed for successive periods of up to forty (40)
215 years each, which periods shall be consistent with the then-existing Reclamation-wide policy,
216 under terms and conditions mutually agreeable to the parties and consistent with Federal and
217 State law. The present Reclamation-wide policy, dated March 20, 2000, provides that the term of

such contracts shall be no more than twenty five (25) years each, subject to a variance to allow a longer term in appropriate circumstances. The Contractor shall be afforded the opportunity to comment to the Contracting Officer on the proposed adoption and application of any revised Reclamation-wide policy applicable to the delivery of Project M&I Water that would limit the term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water to less than twenty five (25) years.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract. During each Year, consistent with all applicable State water rights, permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this Contract, the Contracting Officer shall make available for delivery to the Contractor, Project Water pursuant to either subdivision (1), (2) or (3) below:

(1) At Freeport on the Sacramento River, the Contractor shall be entitled to take delivery of up to a total of 133,000 acre-feet of Project Water for M&I purposes in any Year in which the Contractor's March 1 forecast of its October 1 Total System Storage, as revised monthly through May 1 is less than 500,000 acre-feet based on a 50 percent (50 %) exceedance, or any different reasonable exceedance used by the Contractor to declare rationing within the Contractor's Water Service Area, or as otherwise agreed to by the parties (referred to as the TSS forecast). Said entitlement shall not exceed a total of 165,000 acre-feet of Water delivered in any three consecutive Year period that the Contractor's Total System Storage forecast remains below 500,000 acre-feet.

(2) At Site 5 on the lower American River as described in subdivision (a)(2) of Article 5 of this Contract, the Contractor shall be entitled to take delivery of up to a total of 150,000 acre-feet of Project Water for M&I purposes in any Year, provided that conditions in Article 5(a)(2) are satisfied.

(3) At Station 666+50 on the Folsom South Canal, the Contractor shall be entitled to take delivery of up to a total of 150,000 acre-feet of Project Water for M&I purposes in any Year, only under the terms and conditions of Article 5(a)(3).

(b) Because the capacity of the Central Valley Project to deliver Project Water has been constrained in recent years and may be constrained in the future due to many factors including hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor actually receiving the amount of Water set out in subdivision (a) of this Article in any given Year is uncertain. The Contracting Officer's most recent modeling referenced in the programmatic environmental impact statement (PEIS) required by Section 3409 of the CVPIA, projected that the Contract Total set forth in this Contract will not be available to the Contractor in many years. During the most recent five (5) years, the Recent Historic Average of water made available to the Contractor was 75,000 acre-feet based on contract minimum quantities. Nothing in subdivision (b) of this Article shall affect the rights and obligations of the parties under any provision of this Contract.

(c) The Contractor shall utilize the Project Water in accordance with all applicable legal requirements.

(d) The Contractor shall make reasonable and beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs

utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent with applicable State law and result in use consistent with Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Reclamation Law. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's Service Area may be permitted upon written approval of the Contracting Officer, which approval will be based upon environmental documentation, Project Water rights, and Project operational concerns. The Contracting Officer will address such concerns in regulations, policies, or guidelines.

(e) The Contractor shall comply with requirements applicable to the Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within the Contractor's legal authority to implement. The Contractor shall comply with the limitations or requirements imposed by environmental documentation applicable to the Contractor and within its legal authority to implement regarding specific activities. Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion or other environmental documentation referred to in this Article.

(f) Following the declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will make a determination whether Project Water, or other water available to the Project, can be made available to the Contractor in addition to the Contract Total under Article 3 of this Contract during the Year without adversely impacting other Project Contractors. At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to making such a determination. If the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor, the Contracting Officer will announce the availability of such water and shall so notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of taking such water to determine the most equitable and efficient allocation of such water. If the Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.

(g) The Contractor may request permission to reschedule for use during the subsequent Year some or all of the Water Made Available to the Contractor during the current Year referred to as “carryover.” The Contractor may request permission to use during the current Year a quantity of Project Water which may be made available by the United States to the Contractor during the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(h) The Contractor’s right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract

during the term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent renewal contracts.

(i) Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(j) The Contracting Officer shall make reasonable efforts to protect the water rights necessary for the Project and to provide the water available under this Contract. The Contracting Officer shall not object to participation by the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings related to the Project Water rights; Provided, however, That the Contracting Officer retains the right to object to the substance of the Contractor's position in such a proceeding.

TIME FOR DELIVERY OF WATER

4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall announce the Contracting Officer's expected declaration of the Water Made Available. The declaration will be updated monthly, and more frequently if necessary, based on then-current operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer shall provide forecasts of Project

operations and the basis of the estimate, with relevant supporting information, upon the written request of the Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor with the updated Recent Historic Average. The declaration of Project operations will be expressed in terms of both Water Made Available and the Recent Historic Average.

(b) On or before each March 1 and at such other times as necessary, the Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer, showing the monthly quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting Officer shall use all reasonable means to deliver Project Water according to the approved schedule for the Year commencing on such March 1.

(c) The Contractor shall not schedule Project Water in excess of the quantity of Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's Service Area or to sell, transfer or exchange pursuant to Article 9 of this Contract during any year.

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to be implemented.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract shall be delivered to the Contractor at one of the following points of delivery; Provided,

that any necessary consultation under Section 7 of the Endangered Species Act, and compliance with NEPA, as applicable, has been completed prior to any diversions:

(1) A point of delivery on the Sacramento River at Freeport (Freeport).

It is the intent of the parties to pursue this point of delivery in cooperation with City and County of Sacramento and the Sacramento County Water Agency. The parties acknowledge that the point of delivery identified above, is included as an authorized point of delivery under the water rights for the Project if it is sited consistent with the State Water Resources Control Board Order of July 29, 1999, pertaining to Permits 11315 and 11316 or other existing appropriate State Water Resources Control Board permits. If it is not, Project Water will not be delivered to this point of delivery unless and until such point is added to the water rights permits of the Project. Subject to reimbursement of costs pursuant to Article 25 of this Contract the Contracting Officer will petition the California State Water Resources Control Board to include the necessary points of delivery to the water rights for the Project, and the Contractor shall cooperate with and assist the Contracting Officer in prosecuting such petition in a timely manner. The Contracting Officer shall bear neither responsibility nor liability for existing and/or future constructed non-federal diversion or delivery facilities or the use thereof.

(2) A point of delivery identified as "Site 5" in the Environmental

Impact Statement supporting this Amendatory Contract published in December 2000, subject to the following conditions: (i) prior to approval to divert from Site 5, the Contractor must complete and implement a water storage strategy, satisfactory to the Contracting Officer, which will allow the Contractor to meet Project purposes within the

necessary flow pattern limitations accompanied by the appropriate environmental documentation; (ii) prior to the approval to divert from Site 5 the Contractor must comply with all relevant State and Federal laws and regulations including but not limited to the California Wild and Scenic Rivers Act; (iii) the Contractor will not divert at a rate higher than 155 cfs, or when the American River flow rates are below those specified in the decision of Judge Richard Hodge in Alameda Superior Court on January 2, 1990; (iv) the Contractor will not divert unless the point of delivery is an authorized point of diversion for the associated Project Water rights.

(3) Deliveries of water diverted from Nimbus Dam are hereby prohibited; Provided, however, if the permitting and necessary agreements for a diversion at either Freeport or Site 5 are not completed by July 31, 2002, or another date agreed to by the parties, deliveries shall be made, without further amendment of the Contract, at Station 666+50 on the Folsom South Canal provided that the Contractor makes good faith efforts and devotes adequate resources to obtain the necessary permits and agreements. Such deliveries shall be made in accordance with the decision of Judge Richard Hodge, dated January 2, 1990, in Alameda County Superior Court Action No. 425955. Once a diversion project for delivery of water under this Amendatory Contract is constructed at Freeport or Site 5 and is fully operational, diversion of water at Nimbus Dam shall no longer be an alternative source for delivery of Project or non-project water to Contractor under this Amendatory Contract.

(b) Omitted.

(c) Omitted.

(d) All Water Delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the Contractor, or any other appropriate entity as designated by the Contracting Officer (hereafter “other appropriate entity”) at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of time when accurate measurements have not been made, the Contracting Officer shall consult with the Contractor prior to making a final determination of the quantity delivered for that period of time.

(e) The Contracting Officer shall not be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by the United States.

(f) The parties agree that for the purposes of taking delivery of water under this Amendatory Contract, at Freeport on the Sacramento River or at Site 5 on the Lower American River, the Contractor shall have the right to construct a facility which connects to and extends from or near the existing terminus of the Folsom South Canal or at any other points of delivery set forth in Article 5(a) to the Mokelumne Aqueducts. Contractor shall also have the right to use the Folsom South Canal as a conveyance facility for Project Water that may be delivered to the Contractor at any location and pumped back to the Folsom South Canal through a pipeline to be constructed and operated by the Contractor at its expense and which will connect to the Folsom South Canal at a point located northerly of Grant Line Road at Station 522+81 to accommodate the Site 5 option, or at a location in the vicinity of Grant Line Road at approximately Station 666+50 to accommodate the Freeport East option or other location as mutually agreed to, in writing, by the parties. Prior to the construction of connection facilities to the Folsom South Canal, or from the Folsom South Canal to the Mokelumne Aqueducts for any project different than the project described in the Record of Decision, the Contractor shall submit any necessary further plans, specifications and environmental documentation for making such connections to the Contracting Officer for review and written approval. The Contracting Officer shall cooperate with the Contractor in the development of such further plans, specifications and environmental documentation. All such design and construction costs shall be at the Contractor's expense. The Contracting Officer's approval of such further plans, specifications, and environmental documentation shall not be unreasonably withheld. The Contractor shall pay all reasonable costs, including overhead, incurred by the Contracting Officer in (1) the development, review and approval of any further plans, specifications and environmental

documentation and (2) inspection and oversight costs related to any construction. The United States shall hold the Contractor harmless from any liability arising from the negligence or willful misconduct of the United States, or any of its officers, employees, agents, or assigns, in the conveyance of Project Water through the Folsom South Canal; Provided that, such liability has not arisen from performance or lack thereof of the Contractor under terms and conditions of any approvals related to the Contractor's connection facilities, this Amendatory Contract or any subsequent amendment or renewal thereof.

MEASUREMENT OF WATER WITHIN THE SERVICE AREA

6. (a) The water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The parties acknowledge that the Contractor has equipped all surface water delivery systems within its boundaries with water measuring devices at each M&I water service connection of a type acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure its proper management of the water, to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered for municipal and industrial purposes by customer class as defined in the Contractor's water conservation plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing and collecting any charges, assessments, or other revenues authorized by California law. The Contractor shall include a

summary of all its annual surface water deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

(b) To the extent the information has not otherwise been provided, upon execution of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the measurement devices or water measuring methods being used or to be used to implement subdivision (a) of this Article and identifying the agricultural turnouts and the municipal and industrial service connections or alternative measurement programs approved by the Contracting Officer, at which such measurement devices or water measuring methods are being used, and, if applicable, identifying the locations at which such devices and/or methods are not yet being used including a time schedule for implementation at such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring devices or water measuring methods identified in the Contractor's report and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this Article.

(c) All new surface water delivery systems installed within the Contractor's Service Area after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article.

(d) The Contractor shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Service Area during the previous Year.

(e) The Contractor shall inform the Contracting Officer and the Operating Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of M&I Water taken during the preceding month.

RATES AND METHOD OF PAYMENT FOR WATER

7. (a) The Contractor shall pay the United States as provided in this Article for all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance with: (i) the Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policy shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Reclamation law and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, wire, or any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Components applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B", as may be revised annually.

(b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and Tiered Pricing Components as follows:

(1) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the Contractor an estimate of the Charges for Project Water that will be applied to the period October 1, of the current Calendar Year, through September 30, of the following Calendar

Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the period October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such notification shall revise Exhibit "B."

(2) Prior to October 1 of each Calendar Year, the Contracting Officer shall make available to the Contractor an estimate of the Rates and Tiered Pricing Components for Project Water for the following Year and the computations and cost allocations upon which those Rates are based. The Contractor shall be allowed not less than two (2) months to review and comment on such computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing Components to be in effect for the upcoming Year, and such notification shall revise Exhibit "B".

(c) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall make an advance payment to the United States equal to the total amount payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month and before the end of each calendar month thereafter, the Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between advance payments for

Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of the following month; Provided, That any revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract during any month shall be accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect for such additional Project Water is made. Final adjustment between the advance payments for the Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last day of February.

(d) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered as shown in the water delivery report for the subject month prepared by the by the Contracting Officer. The water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of payments due to the United

States for Charges for the next month. Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

(e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall be no more than the otherwise applicable Rate for Irrigation or M&I Water under subdivision (a) of this Article.

(f) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(g) All revenues received by the United States from the Contractor relating to the delivery of Project Water or the delivery of non-project water through Project facilities shall be allocated and applied in accordance with Federal Reclamation law and the associated rules or regulations, and the then current Project ratesetting policies for M&I Water or Irrigation Water.

(h) The Contracting Officer shall keep its accounts pertaining to the administration of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards, so as to reflect the application of Project costs and revenues. The Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense allocations, the disposition of all Project and Contractor revenues, and a summary of all water delivery information. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings, reports, or information.

(i) The parties acknowledge and agree that the efficient administration of this Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms, policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or for making and allocating payments, other than those set forth in this Article may be in the mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect without amending this Contract; Provided, that such modification does not unreasonably shift costs to other Project Contractors.

(j) (1) Beginning at such time as deliveries of Project Water in a Year exceed eighty percent (80%) of the Contract Total, then before the end of the month following the month of delivery the Contractor shall make an additional payment to the United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in excess of eighty percent (80%) of the Contract Total, but less than or equal to ninety percent (90%) of the Contract Total, shall equal the one-half of the difference between the Rate established under subdivision (a) of this Article and the M&I Full Cost Water Rate. The Tiered Pricing Component for the amount of Water Delivered which exceeds ninety (90%) percent of the Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of this Article and (ii) the M&I Full Cost Water Rate.

(2) Omitted.

(3) For purposes of determining the applicability of the Tiered Pricing Components pursuant to this Article, Water Delivered shall include Project Water that the

Contractor transfers to others but shall not include Project Water transferred and delivered to the Contractor.

(k) For the term of this Contract, Rates under the M&I ratesetting policy will be established to recover only reimbursable Operation and Maintenance (including any deficits) and capital costs of the Project, as those terms are used in the then-current Project ratesetting policies, and interest, where appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy. Changes of significance in practices which implement the Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

(l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the changed costs (if any) incurred by the Contracting Officer in the delivery of the transferred Project Water to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy.

(m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting Officer is authorized to adjust determinations of ability to pay every five (5) years.

(n) The Contractor asserts that it is not legally obligated to repay any Central Valley Project deficits or deficit related interest charges claimed by the United States to have accrued as of the date of this Amendatory Contract. By entering into this Amendatory Contract, the Contractor does not waive any legal rights or remedies which it may have with respect to such disputed issues. Notwithstanding the execution of this Amendatory Contract, and payments

made hereunder, the Contractor may challenge in the appropriate administrative or judicial forums: (1) the computation, or imposition of any deficit charges accruing under the Original Contract; (2) interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by the United States of payments made by the Contractor under its Original Contract; and (5) the application of such payments in the Rates.

The Contracting Officer agrees that the Contractor shall be entitled to the benefit of any administrative or judicial ruling in favor of any other Central Valley Project M&I contractor on any of these issues, provided that the basis for such ruling is applicable to the Contractor.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall have no further liability therefor.

SALES, TRANSFERS, OR EXCHANGES OF WATER

9. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be approved absent compliance with appropriate environmental documentation including but not limited to the National Environmental Policy Act and the Endangered Species Act. Such environmental documentation should include, as appropriate, an analysis of

636 groundwater impacts and economic and social effects, including environmental justice, of the
637 proposed water transfers on both the transferor and transferee.

638 (b) In order to facilitate efficient water management by means of water
639 transfers of the type historically carried out among Project Contractors located within the same
640 geographical area and to allow the Contractor to participate in an accelerated water transfer
641 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
642 necessary environmental documentation including, but not limited to, the National
643 Environmental Policy Act and the Endangered Species Act analyzing annual transfers within
644 such geographical areas and the Contracting Officer shall determine whether such transfers
645 comply with applicable law. Following the completion of the environmental documentation,
646 such transfers addressed in such documentation shall be conducted with advance notice to the
647 Contracting Officer, but shall not require prior written approval by the Contracting Officer. Such
648 environmental documentation and the Contracting Officer's compliance determination shall be
649 reviewed every five (5) years and updated, as necessary, prior to the expiration of the then
650 existing five (5) -year period. All subsequent environmental documentation shall include an
651 alternative to evaluate not less than the quantity of Project Water historically transferred within
652 the same geographical area.

653 (c) For a water transfer to qualify under subdivision (b) of this Article, such
654 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3)
655 years, for M&I use, groundwater recharge, water banking, or fish and wildlife resources; not lead
656 to land conversion; and be delivered to established cropland, wildlife refuges, groundwater
657 basins or municipal and industrial use; (ii) occur within a single Year; (iii) occur between a

willing seller and a willing buyer; (iv) convey water through existing facilities with no new construction or modifications to facilities and be between existing Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of the environment and Indian Trust Assets, as defined under Federal law.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment at the option of the Contractor, may be credited against amounts to become due to the United States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year in which the overpayment was made.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's

advances, the Contractor will be billed for the additional costs pursuant to Article 25 of this Contract.

(c) Nothing in this Contract shall be construed to require or prohibit the Contractor from making voluntary payments for retiring or avoiding any O&M deficit. Such voluntary payments would be the same as, or similar to, participation in the existing Contracting Officer's Voluntary Payment Program.

TEMPORARY REDUCTIONS--RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the requirements of Federal law; and (ii) the obligations of the United States under existing contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

(b) The Contracting Officer may temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given; Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of

Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction.

(c) The United States reserves the right to all seepage and return flow water derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States any right as seepage or return flow being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or under the Contractor.

CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Amendatory Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.

(c) In any Year in which there may occur a shortage for any of the reasons specified in subdivision (b) above, the Contracting Officer shall apportion the available Project Water supply among the Contractor and others entitled, under existing contracts and future

contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual obligations of the United States; and consistent with the then current M&I Water Shortage Policy for the Central Valley Project or any modifications or replacement thereof; Provided, that the 133,000 acre-feet of Project Water referenced in Article 3(a) shall be used as the base amount (equivalent to the term “historic use” applied in the M&I Water Shortage Policy for the Central Valley Project, dated February 17, 1994) for the purpose of calculating Project Water shortages applicable to the Contractor. Such Policy shall be amended, modified, or superseded only through a public notice and comment procedure.

UNAVOIDABLE GROUNDWATER PERCOLATION

13. Omitted.

RULES AND REGULATIONS

14. The parties agree that the delivery of Water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

WATER AND AIR POLLUTION CONTROL

15. The Contractor, in carrying out this Contract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California, and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

745 QUALITY OF WATER

746 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant
747 to this Contract shall be operated and maintained to enable the United States to deliver Project
748 Water to the Contractor in accordance with the water quality standards specified in subsection
749 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of
750 October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States is under no
751 obligation to construct or furnish water treatment facilities to maintain or to improve the quality
752 of Water Delivered to the Contractor pursuant to this Contract. The United States does not
753 warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

754 (b) The Operation and Maintenance of Project facilities shall be performed in
755 such manner as is practicable to maintain the quality of raw water made available through such
756 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The
757 Contractor shall be responsible for compliance with all State and Federal water quality standards
758 applicable to surface and subsurface agricultural drainage discharges generated through the use of
759 Federal or Contractor facilities or Project Water provided by the Contractor within the
760 Contractor's Service Area.

761 WATER ACQUIRED BY THE CONTRACTOR
762 OTHER THAN FROM THE UNITED STATES

763 17. (a) Omitted.
764 (b) Water or water rights now owned or hereafter acquired by the Contractor,
765 other than from the United States or adverse to the Project or its contractors (i.e. non-project

water), may be stored, conveyed and/or diverted through Project facilities, subject to the completion of appropriate environmental documentation, with the approval of the Contracting Officer and the execution of any contract determined by the Contracting Officer to be necessary, consistent with the following provisions:

(1) The Contractor may introduce non-project water into Project facilities and deliver said water within the Contractor's Service Area, subject to payment to the United States of an appropriate rate as determined by the CVP Ratesetting Policy, as amended, modified or superseded from time to time. In addition, if electrical power is required to pump non-project water through the facilities, the Contractor shall be responsible for obtaining the necessary power and paying the necessary charges therefor.

(2) Delivery of such non-project water in and through Project facilities shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other Project Water service contractors; (iii) interfere with the delivery of contractual water entitlements to any other Project Water service contractors; or (iv) interfere with the physical maintenance of the Project facilities.

(3) The United States shall not be responsible for control, care or distribution of the non-project water before it is introduced into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United States, and its officers, agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting from Contractor's diversion or extraction of non-project water from any source.

(4) Diversion of such non-project water into Project facilities shall be consistent with all applicable laws, and if involving groundwater, consistent with any groundwater management plan for the area from which it was extracted.

(5) After Project purposes are met, as determined by the Contracting Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of the facilities declared to be available by the Contracting Officer for conveyance and transportation of non-project water prior to any such remaining capacity being made available to non-Project Contractors.

(6) The provisions of this Article 17 shall not apply to water conveyed through the Folsom South Canal consistent with Article 5.

OPINIONS AND DETERMINATIONS

18. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to or shall affect or alter the standard of judicial review applicable under Federal law to any opinion or determination implementing a specific provision of federal law embodied in statute or regulation.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the provisions of this Contract, the

laws of the United States and of the State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

COORDINATION AND COOPERATION

19. (a) In order to further their mutual goals and objectives, the Contracting Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project Contractors, in order to improve the operation and management of the Project. The communication, coordination, and cooperation regarding operations and management shall include, but not be limited to, any action which will or may materially affect the quantity or quality of Project Water supply, the allocation of Project Water supply, and Project financial matters including, but not limited to, budget issues. The communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this Contract. Each party shall retain exclusive decision making authority for all actions, opinion, and determinations to be made by the respective party.

(b) Within one hundred twenty (120) days following the effective date of this Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested Project Contractors to develop a mutually agreeable, written Project-wide process, which may be amended as necessary separate and apart from this Contract. The goal of this process shall be to provide, to the extent practicable, the means of mutual communication and interaction regarding significant decisions concerning Project operation and management on a real-time basis.

(c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

(1) The Contracting Officer will, at the request of the Contractor, assist in the development of integrated resource management plans for the Contractor. Further, the Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to improve water supply, water quality, and reliability.

(2) The Secretary will, as appropriate, pursue program and project implementation and authorization in coordination with Project Contractors to improve the water supply, water quality, and reliability of the Project for all Project purposes.

(3) The Secretary will coordinate with Project Contractors and the State of California to seek improved water resource management.

(4) The Secretary will coordinate actions of agencies within the Department of the Interior that may impact the availability of water for Project purposes.

(5) The Contracting Officer shall periodically, but not less than annually, hold division level meetings to discuss Project operations, division level water management activities, and other issues as appropriate.

(d) Without limiting the contractual obligations of the Contracting Officer hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to protect health,

safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

CHARGES FOR DELINQUENT PAYMENTS

20. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six percent (6%) per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of one-half of one percent (0.5%) per month prescribed by Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

EQUAL OPPORTUNITY

21. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive

consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

22. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the

obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligations to the Contractor.

(b) The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor may be in arrears in the advance payment of water rates due the United States. The Contractor shall not furnish water made available pursuant to this Contract for lands or parties which are in arrears in the advance payment of water rates levied or established by the Contractor.

(c) With respect to subdivision (b) of this Article, the Contractor shall have no obligation to require advance payment for water rates which it levies.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article, and that the United States reserves the right to seek judicial enforcement thereof.

PRIVACY ACT COMPLIANCE

24. Omitted.

954 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

955 25. In addition to all other payments to be made by the Contractor pursuant to this
956 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
957 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
958 specific items of direct cost incurred by the United States for work requested by the Contractor
959 associated with this Contract plus indirect costs in accordance with applicable Bureau of
960 Reclamation policies and procedures. All such amounts referred to in this Article shall not
961 exceed the amount agreed to in writing in advance by the Contractor. This Article shall not apply
962 to costs for routine contract administration.

963 WATER CONSERVATION

964 26. (a) The Contractor has developed and is implementing an effective water
965 conservation program based on the Contractor's water conservation plan that has been reviewed
966 by the Contracting Officer and determined to meet the conservation and efficiency criteria
967 established under Federal law. The water conservation and efficiency program contains certain
968 definite water conservation objectives, appropriate economically feasible water conservation
969 measures, and time schedules for meeting those objectives. Continued Project Water delivery
970 pursuant to this Contract shall be contingent upon the Contractor's continued implementation of
971 such water conservation program. In the event the Contractor's water conservation plan or any
972 revised water conservation plan completed pursuant to subdivision (d) of Article 26 of this
973 Contract have not yet been determined by the Contracting Officer to meet such criteria, due to
974 circumstances which the Contracting Officer determines are beyond the control of the
975 Contractor, water deliveries shall be made under this Contract so long as the Contractor

diligently works with the Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing its water conservation and efficiency program in accordance with the time schedules therein.

(b) The Contractor shall implement the Best Management Practices identified by the time frames issued by the California Urban Water Conservation Council for such M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

(c) The Contractor shall submit to the Contracting Officer a report on the status of its implementation of the water conservation plan on the reporting dates specified in the then existing conservation and efficiency criteria established under Federal law.

(d) At five (5) -year intervals, the Contractor shall revise its water conservation plan to reflect the then current conservation and efficiency criteria for evaluating water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets Reclamation's then current conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(e) If the Contractor is engaged in direct groundwater recharge, such activity shall be described in the Contractor's water conservation plan.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

27. Except as specifically provided in Article 17 of this Contract, the provisions of this Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Service

Area. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Service Area acquires or has available under any other contract pursuant to Federal Reclamation law.

OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

28. Omitted.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

29. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

BOOKS, RECORDS, AND REPORTS

30. (a) The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial transactions, water supply data, and Project land and right-of-way agreements; water use data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

(b) Notwithstanding the provisions of subdivision (a) of this Article, no books, records, or other information shall be requested from the Contractor by the Contracting Officer unless such books, records, or information are reasonably related to the administration or performance of this Contract. Any such request shall allow the Contractor a reasonable period of time within which to provide the requested books, records, or information.

1024 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1025 31. (a) The provisions of this Contract shall apply to and bind the successors and
1026 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1027 therein shall be valid until approved in writing by the Contracting Officer.

1028 (b) The assignment of any right or interest in this Contract by either party shall
1029
1030 not interfere with the rights or obligations of the other party to this Contract absent the written
1031 concurrence of said other party.

1032 (c) The Contracting Officer shall not unreasonably condition or withhold
1033 approval of any proposed assignment.

1034 SEVERABILITY

1035 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1036 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1037 an association or other form of organization whose primary function is to represent parties to
1038 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1039 enforceability of a provision included in this Contract and said person, entity, association, or
1040 organization obtains a final court decision holding that such provision is legally invalid or
1041 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1042 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1043 such final court decision identify by mutual agreement the provisions in this Contract which must
1044 be revised and (ii) within three (3) months thereafter promptly agree on the appropriate
1045 revision(s). The time periods specified above may be extended by mutual agreement of the

parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

RESOLUTION OF DISPUTES

33. Should any dispute arise concerning any provisions of this Contract, or the parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring any matter to Department of Justice, the party shall provide to the other party thirty (30) days' written notice of the intent to take such action; Provided, That such notice shall not be required where a delay in commencing an action would prejudice the interests of the party that intends to file suit. During the thirty (30) -day notice period, the Contractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor or the United States may have.

OFFICIALS NOT TO BENEFIT

34. No Member of or Delegate to Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTOR'S SERVICE AREA

35. (a) While this Contract is in effect, no change may be made in the Contractor's Service Area by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

(b) Within thirty (30) days of receipt of a request for such a change, the Contracting Officer will notify the Contractor of any additional information required by the Contracting Officer for processing said request, and both parties will meet to establish a mutually agreeable schedule for timely completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

FEDERAL LAWS

36. By entering into this Contract, the Contractor does not waive its rights to contest the validity or application in connection with the performance of the terms and conditions of this Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the terms and conditions of this Contract unless and until relief from application of such Federal law or regulation to the implementing provision of the Contract is granted by a court of competent jurisdiction.

NOTICES

37. Any notice, demand, or request authorized or required by this Amendatory Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, California 95630-1799, and on behalf of the United States, when mailed, postage prepaid, to Board of Directors, East Bay Municipal Utility District, PO Box 24055, Oakland, California 94623-1055, or delivered to Board of Directors, East Bay Municipal Utility District,

1096 375 Eleventh Street, Oakland, California 94607. The designation of the addressee or the address
1097 may be changed by notice given in the same manner as provided in this Article for other notices.

1098 CONFIRMATION OF CONTRACT

1099 38. (a) The Contractor, after the execution of this Contract, shall promptly seek to
1100 secure a decree of a court of competent jurisdiction of the State of California, confirming the
1101 execution of this Contract. The Contractor shall furnish the United States a certified copy of the
1102 final decree, the validation proceedings, and all pertinent supporting records of the court
1103 approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and
1104 binding on the Contractor.

1105 (b) Notwithstanding the provisions of Article 38 (a), the Contracting Officer
1106 acknowledges that the Contractor obtained a valid court decree confirming the execution of the
1107 original contract that this Contract amends. Because this Contract does not substantially expand
1108 the duties of either party under the original contract, a court decree confirming the terms of this
1109 Amendatory Contract will not be required. Any renewal of this Contract will require the
1110 Contractor to obtain such a decree.

1107 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
1108 the day and year first above written.

1109
1110 THE UNITED STATES OF AMERICA

1111 By: Michael J. Ryan
1112 Regional Director, Mid-Pacific Region
1113 Bureau of Reclamation

1114 EAST BAY MUNICIPAL UTILITY DISTRICT

1115 By: Katy Foulkes
1116 President of the Board of Directors

1117 Attest:

1118 By: Lynelle M. Lewis
1119 Secretary of the Board of Directors

1120 (I:Revfin~1.wpd)

EXHIBIT A

**East Bay
Municipal Utility District
Water Service Area**

Exhibit A



**San
Francisco**

0 5 10
MILES



Note:

**The Authorized Water Service Area
Shall also include territories
Annexed to EBMUD in accordance
with Article 35**

EXHIBIT B

[Initial Rates and Charges]

CONTRACT NUMBER: 14-06-200-5183A-1
EAST BAY MUNICIPAL UTILITY DISTRICT

	<u>2001 Rates Per Acre-Foot</u> <u>M&I</u>
O&M AND COST-OF-SERVICE RATES:	
Capital Rate:	\$15.29
O&M Rate:	\$17.57
Water Marketing	\$7.00
Storage	4.47
Conveyance	6.10
Deficit Rate: *	\$22.95
TOTAL COST-OF-SERVICE (COS) RATE:	\$55.80
TIERED PRICING COMPONENT >80% ≤90% OF CONTRACT TOTAL (M&I Full Cost Rate - COS rate / 2):	\$5.58
TIERED PRICING COMPONENT > 90% OF CONTRACT TOTAL (M&I Full Cost Rate - COS rate):	\$11.17
M&I FULL COST RATE: Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;	\$66.97
SURCHARGES UNDER P.L. 102-575 TO RESTORATION FUND** Restoration Payments [3407(d)(2)(A)]	\$14.56

* See subdivision (n) of Article 7.

** The surcharges are payments in addition to the water rates and are determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1 -9/30).